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calendar year 1957 from dividends, interest, copyright royalties and the like, motion picture film rentals, private pensions or private life annuities is in excess of the tax imposed under subtitle A (relating to the income tax) of the Internal Revenue Code of 1954, as modified by the convention, a claim by the taxpayer for refund of any overpayment resulting therefrom may be made under section 6402 of such Code and the regulations thereunder.

(b) *Form of claim*—(1) *Where return previously filed.* If the taxpayer has previously filed an income tax return with the Internal Revenue Service for the taxable year in which an overpayment has resulted because of the application of the convention, he should make a claim for refund of the overpayment by filing Form 843 or an amended return.

(2) *Where no return previously filed.* If the taxpayer has not previously filed an income tax return with the Internal Revenue Service for the taxable year in which an overpayment has resulted because of the application of the convention, he should make a claim for refund of the overpayment by filing Form 1040NB, Form 1040NB-a, Form 1040B, Form 1120, or Form 1120NB, whichever is applicable, showing the overpayment. Such return will serve as a claim for refund, and it will not be necessary for the taxpayer to file Form 843.

(c) *Information required.* If the taxpayer's total gross income (including every item of capital gain subject to tax) from sources within the United States for the taxable year in which such overpayment resulted has not been disclosed in an income tax return filed with the Internal Revenue Service prior to the time the claim for refund is made, the taxpayer shall disclose such total gross income with his claim. In the event that securities are held in the name of a person other than the actual or beneficial owner, the name and address of such person shall be furnished with the claim. In addition to such other information as may be required to establish the overpayment, there shall also be included in such claim for refund:

(1) A statement that, at the time when the item or items of income were received (or "paid", in the case of private pensions and private life annu-

ities) from which the excess tax was withheld, (i) the taxpayer was neither a citizen nor a resident of the United States but was a resident of Austria, or, in the case of a corporation or other entity, (ii) the taxpayer was an Austrian corporation or other entity; and

(2) A statement that the taxpayer at no time during the taxable year in which the income was received had a permanent establishment within the United States.

(d) *Exceptions*—(1) *Private pensions and private life annuities.* If the taxpayer is an individual who during the taxable year of overpayment received income from United States sources consisting exclusively of private pensions or private life annuities entitled to the benefit of Article XI (2) of the convention, the statement specified in paragraph (c)(2) of this section shall not be required.

(2) *Dividends paid by a related corporation.* As to additional information required in the case of an Austrian corporation claiming the benefit of the 5 percent rate on dividends paid by a related corporation, see § 516.2(c).

§ 516.11 Information to be furnished in ordinary course.

For provisions relating to the exchange of information under Article XVI of the convention, see § 1.1461-2(d) of this chapter.

§ 516.12 Taxable years beginning in 1956 and ending in 1957.

If, in the case of a taxable year beginning in 1956 and ending in 1957, a taxpayer has no permanent establishment in the United States at any time during that part of the taxable year which follows December 31, 1956, then he shall, for purposes of §§ 516.1 to 516.12 be deemed not to have had a permanent establishment in the United States at any time during the taxable year.

PART 517—PAKISTAN

Subpart—Withholding of Tax

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AUTHORITY: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805.

SOURCE: Treasury Decision 6431, 24 FR 10100, Dec. 15, 1959; 25 FR 14022, Dec. 31, 1960, unless otherwise noted.

EFFECTIVE DATE NOTE: By T.D. 8732, 62 FR 53498, Oct. 14, 1997, part 517 was removed, effective Jan. 1, 1999.

Subpart—Withholding of Tax

§ 517.1 Introductory.

(a) *Pertinent provisions of the convention.* The income tax convention between the United States and Pakistan, signed on July 1, 1957, referred to in §§ 517.1 to 517.9 as the convention, provides in part as follows, effective for taxable years beginning on or after January 1, 1959:

ARTICLE I

(1) The taxes which are the subject of the present Convention are:

(a) In the United States of America: The Federal income taxes, including surtaxes (hereinafter referred to as United States tax)..

(b) In Pakistan: The income tax, supertax and the business profits tax (hereinafter referred to as Pakistan tax).

(2) The present Convention shall also apply to any other taxes of a substantially similar character (including excess profits tax) imposed by either contracting State after the date of signature of the present Convention, or by the Government of any territory to which the present Convention is extended under Article XVIII.

ARTICLE II

(1) In the present Convention, unless the context otherwise requires:

(a) The term “United States” means the United States of America and when used in a geographical sense means the States thereof, the Territories of Alaska and Hawaii and the District of Columbia;

(b) The term “Pakistan” means the Provinces of Pakistan and the Capital of the Federation;

(c) The terms “one of the contracting States” and “the other contracting State”

mean the United States or Pakistan, as the context requires;

(d) The term “tax” means United States tax, or Pakistan tax, as the context requires;

(e) The term “person” includes any body of persons, corporate or not corporate;

(f) The term “company” means any body corporate or not corporate, assessed as a company under Pakistan law relating to Pakistan tax;

(g) The term “United States corporation” means a corporation, association or other like entity created or organized in the United States or under the law of the United States or of any State or Territory of the United States;

(h) The term “resident of the United States” means any individual or fiduciary who is resident in the United States for the purposes of the United States tax, and not resident in Pakistan for the purposes of the Pakistan tax, and any United States corporation or any partnership created or organized in the United States or under the laws of the United States, being a corporation or partnership which is not resident in Pakistan for the purposes of Pakistan tax;

(i) The term “resident of Pakistan” means any person (other than a citizen of the United States or a United States corporation) who is resident in Pakistan for the purposes of Pakistan tax and not resident in the United States for the purposes of the United States tax. A company is to be regarded as a resident of Pakistan if its business is managed and controlled in Pakistan;

(j) The terms “resident of one of the contracting States” and “resident of the other contracting State” means a person who is a resident of the United States or a person who is a resident of Pakistan, as the context requires;

(k) The terms “United States enterprise” and “Pakistan enterprise” mean, respectively an industrial or commercial enterprise or undertaking carried on in the United States by a resident of the United States and an industrial or commercial enterprise or undertaking carried on in Pakistan by a resident of Pakistan; and the terms “enterprise of one of the contracting States” and “enterprise of the other contracting State” mean a United States enterprise or a Pakistan enterprise, as the context requires;

(l) The term “industrial or commercial profits” does not include rents or royalties in respect of motion picture films or of oil wells, mines and quarries, or income in the form of dividends, interest, rents or royalties, or fees or other remuneration derived by an enterprise from the management, control or supervision of the trade, business, or other activity of another enterprise or concern, or remuneration for labor or personal services, or income from the operation of ships;

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(m) The term “permanent establishment”, when used with respect to an enterprise of one of the contracting States, means a branch, management, factory or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. In this connection—

(i) An enterprise of one of the contracting States shall not be deemed to have a permanent establishment in the other contracting State merely because it carries on business dealings in that other contracting State through a bona fide broker or general commission agent acting in the ordinary course of his business as such; and

(ii) The fact that a corporation or company which is a resident of one of the contracting States has a subsidiary corporation or company which is a resident of the other contracting State or which is engaged in trade or business in such other contracting State (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary corporation or company a permanent establishment of its parent corporation or company;

(n) The term “taxation authorities” means, in the case of the United States, the Commissioner of Internal Revenue as authorized by the Secretary of the Treasury and, in the case of Pakistan, the Central Board of Revenue or their authorized representatives; and, in the case of any territory to which the present Convention is extended under Article XVIII, the competent authority for the administration in such territory of the taxes to which the present Convention applies.

(2) In the application of the provisions of the present Convention by one of the contracting States, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that contracting State relating to the taxes which are the subject of the present Convention.

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ARTICLE VI

(1) The rate of United States tax on dividends paid by a United States corporation to a Pakistan company—

(i) Not having a permanent establishment in the United States and

(ii) Owning shares carrying more than 50 percent of the voting power in the corporation paying such dividends shall not exceed fifteen percent.

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ARTICLE VII

(1) Dividends paid by a company which is a resident of Pakistan shall be exempt from United States tax except where the recipient thereof is a citizen or resident or corporation of the United States.

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ARTICLE VIII

(1) Any royalty (other than royalties or rentals from motion picture films) paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trademark, or other like property, and derived from sources in one of the contracting States by a resident of the other contracting State not having a permanent establishment in the former State shall be exempt from tax by such former State.

(2) Where any royalty exceeds a fair and reasonable consideration in respect of the rights for which it is paid, the exemption provided by the present Article shall apply only to so much of the royalty as represents such fair and reasonable consideration.

ARTICLE IX

(1) Remuneration, including pensions and annuities, paid by or on behalf of the Government of the United States or its political subdivisions to an individual who is a citizen of the United States, not ordinarily resident in Pakistan, for services rendered to that Government in the discharge of governmental functions shall be exempt from Pakistan tax.

(2) Remuneration, including pensions and annuities, paid by or on behalf of the Government of Pakistan or the Government of a Province in Pakistan or any local authority thereof to any individual who is a citizen of Pakistan not having immigrant status in the United States, for services rendered in the discharge of functions of that Government or of local authority, as the case may be, shall be exempt from United States tax.

(3) The provisions of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on for purposes of profit.

ARTICLE X

(1) A pension or annuity (other than a pension or annuity of the kind referred to in paragraphs (1) and (2) of Article IX) derived from sources within one of the contracting States by a resident of the other contracting State shall be exempted from tax by the former State.

(2) The term “annuity,” for the purposes of this Article, means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of

time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

(3) This Article shall not apply to a pension or annuity payable from a superannuation fund approved or recognized under the tax law of Pakistan nor to a pension or annuity from a fund, under an employees' pension or annuity plan, contributions to which under the tax law of the United States are deductible in determining the taxable income of the employer.

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ARTICLE XIV

(1) Effective January 1, 1956 the State Bank of Pakistan shall be exempted from United States tax with respect to interest from sources within the United States.

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ARTICLE XVI

(1) The taxation authorities of the contracting States shall exchange such information (being information which is available under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or for the administration of statutory provisions in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

* * * * *

(3) The taxation authorities of both contracting States may prescribe regulations necessary to interpret and carry out the provisions of the present Convention and may communicate with each other directly for the purpose of giving effect to the provisions of the present Convention.

(4) The provisions of the present Convention shall not be construed to restrict in any manner any exemption, deduction, credit or other allowance now or hereafter accorded by the laws of either contracting State in determining the tax of such State.

ARTICLE XVII

(1) The citizens or nationals of one of the contracting States shall not, while resident in the other contracting State, be subjected in such other State to taxes or any requirement connected therewith which is other,

higher or more burdensome than the taxes and connected requirements to which the citizens or nationals of such other State resident therein are or may be subjected.

(2) The term "citizens" or "nationals", as used in this Article, includes all legal persons, partnerships and associations deriving their status from, or created or organized under, the laws in force in the respective contracting States.

(3) Nothing contained in this Article shall be construed—

(a) as obliging either of the contracting States to grant to persons not resident in its territory those personal allowances, reliefs and reductions for tax purposes which are by law available only to persons who are so resident; or

(b) as affecting any provisions of the law of Pakistan regarding the imposition of tax on a non-resident or the grant of rebate of tax to companies fulfilling specified requirements regarding the declaration and payment of dividends, unless those requirements are fulfilled.

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ARTICLE XIX

The present Convention shall come into force on the date when the last of all such things shall have been done in the United States and Pakistan as are necessary to give the Convention the force of law in the United States and Pakistan, respectively, and shall thereupon have effect—

(a) In the United States, for the taxable years beginning on or after the first day of January of the year in which the instruments of ratification are exchanged;

(b) In Pakistan, in respect of the "previous years" or the "chargeable accounting periods" (as defined by the tax laws of Pakistan) beginning on or after the first day of January of the year in which the instruments of ratification are exchanged.

ARTICLE XX

The present Convention shall continue in effect indefinitely but either of the contracting States may, on or before the 30th day of June in any calendar year not earlier than three years from the date of signature of the present Convention, give to the other contracting State written notice of termination and, in such event the present Convention shall cease to be effective—

(a) in the United States, for the taxable years beginning on or after the first day of January next following such written notice of termination; and

(b) in Pakistan, in respect of the "previous years" or the "chargeable accounting periods" (as defined by the tax laws of Pakistan)

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beginning on or after the first day of January next following such written notice of termination.

(b) *Meaning of terms.* As used in §§ 517.1 to 517.9, any term defined in the convention shall have the meaning so assigned to it; any term not so defined shall, unless the context otherwise requires, have the meaning which such term has under the internal revenue laws of the United States.

§ 517.2 Dividends paid by, or to, a Pakistan company.

(a) *Exemption from, or reduction in rate of, United States tax—(1) Dividends paid by a foreign company managed and controlled in Pakistan.* Dividends which are paid by a foreign company whose business is managed and controlled in Pakistan and are received in a taxable year beginning on or after January 1, 1959, by a recipient who is not a citizen or resident or corporation of the United States are exempt from United States tax under the provisions of Article VII(1) of the convention.

(2) *Dividends paid to a Pakistan parent company.* The rate of United States tax imposed upon dividends paid by a domestic corporation and received from sources within the United States in a taxable year beginning on or after January 1, 1959, by a Pakistan company shall not exceed 15 percent under the provisions of Article VI(1) of the convention if (i) the Pakistan company does not have a permanent establishment in the United States at any time during the taxable year in which the dividend is received and (ii) the Pakistan company owns, at the time the dividend is paid, shares of stock carrying more than 50 percent of the voting power of the domestic corporation. For the purposes of this subparagraph, the term “Pakistan company” means a company, as defined in Article II(1)(f) of the convention.

(b) *Withholding of tax from dividends—(1) Exemption from withholding.* No withholding of United States tax is required in the case of dividends paid by a foreign company whose business is managed and controlled in Pakistan if, in accordance with paragraph (a)(1) of this section, the dividends are exempt from United States tax.

(2) *Withholding of tax at rate of 15 percent from dividends paid to a Pakistan parent company—(i) Notification by letter.* To secure withholding of United States tax on or after January 1, 1959, at the rate of 15 percent in the case of dividends entitled to the reduced rate in accordance with paragraph (a)(2) of this section, the Pakistan company shall notify the withholding agent by letter in duplicate that the dividends are subject to the reduced rate of United States tax under the provisions of Article VI(1) of the convention. The letter of notification shall be signed by an officer of the company and shall show the name and address of the corporation paying the dividends, the name and address of the Pakistan company receiving the dividends, and the official title of the officer signing the letter. The letter shall contain a statement that (a) the owner of the dividends is a Pakistan company, (b) the owner at no time during the current taxable year had a permanent establishment in the United States, and (c) the Pakistan company owns shares of stock carrying more than 50 percent of the voting power of the domestic corporation paying the dividends. The letter shall also indicate the dates on which the current taxable year of the taxpayer begins and ends.

(ii) *Use of letter for release of excess tax.* If the letter of notification is also to be used as authorization for the release, pursuant to § 517.7(a)(2), of excess tax withheld from dividends, it shall also contain a statement that (a) at the time when the dividends were paid from which the excess tax was withheld, the owner was a Pakistan company, (b) the owner at no time during the taxable year in which the dividends were received had a permanent establishment in the United States, and (c) the Pakistan company owned, at the time when the dividends were paid, shares of stock carrying more than 50 percent of the voting power of the domestic corporation paying the dividends. The dates of the beginning and ending of the taxable year of the taxpayer in which the dividends were received shall also be indicated.

(iii) *Manner of filing letter.* The letter of notification, which shall constitute authorization for withholding of tax at

the reduced rate of 15 percent, shall be filed with the withholding agent for each successive 3-calendar-year period during which the dividends are paid. For this purpose, the first of such periods shall commence with the beginning of the calendar year in which the dividends are first paid on or after January 1, 1959. Each letter filed with any withholding agent shall be filed not later than 20 days preceding the date of the first payment within each successive period, or, if that is not possible because of special circumstances, as soon as possible after such first payment. Once a letter of notification has been filed in respect of any 3-calendar-year period, no additional letter need be filed in respect thereto unless the Commissioner of Internal Revenue notifies the withholding agent that an additional letter shall be filed by the taxpayer. If, after filing a letter of notification, the Pakistan company ceases to be eligible for the reduction in rate of United States tax granted by Article VI(1) of the convention, it shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the shares of stock as recorded in the books of record, the reduction in the rate of withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(iv) *Disposition of letter.* Each letter of notification, or the duplicate thereof, shall be forwarded immediately by the withholding agent to the Director of International Operations, Internal Revenue Service, Washington 25, D.C.

(3) *Dividends paid to Pakistan company where degree of stock ownership is uncertain—(i) Request for determination in respect of future payments.* If a Pakistan company anticipates the receipt of dividends from a domestic corporation and the relationship existing between the Pakistan company and the domestic corporation is such as to render uncertain whether, by reason of the requirement as to stock ownership, the reduction in rate of United States tax granted by Article VI(1) of the convention will apply to such dividends, the Pakistan company shall not undertake to file the letter of notification pre-

scribed in subparagraph (2)(i) of this paragraph unless it has, prior to such filing, applied for and received from the Commissioner of Internal Revenue, Washington 25, D.C., a determination that it owns shares of stock carrying more than 50 percent of the voting power of the domestic corporation. The application for the determination shall contain a full statement of all the facts pertinent to such a determination.

(ii) *Notification of determination.* As soon as practicable after the application has been filed, the Commissioner of Internal Revenue will determine whether the Pakistan company owns shares of stock carrying sufficient voting power of the domestic corporation to permit the Pakistan company to claim the benefit of Article VI(1) of the convention in the case of such dividends and shall notify the Pakistan company of his determination. The Pakistan company shall thereafter file with the withholding agent a copy of the Commissioner's letter of notification.

(iii) *Securing reduced rate of withholding.* If the determination of the Commissioner of Internal Revenue is that the Pakistan company does own shares of stock carrying more than 50 percent of the voting power of the domestic corporation, the Pakistan company may thereafter, if otherwise qualified, secure the reduced rate of withholding of United States tax by filing a letter of notification in accordance with subparagraph (2) of this paragraph.

(iv) *Period during which determination is applicable.* A determination by the Commissioner of Internal Revenue that a Pakistan company does own shares of stock carrying sufficient voting power of the domestic corporation to permit the Pakistan company to claim the benefit of Article VI(1) of the convention will apply until such time as the stock ownership of the domestic corporation has changed to the extent that, because of such change, dividends to be received from the domestic corporation by the Pakistan company no longer qualify for the reduced rate of United States tax under Article VI(1) of the convention. If such change in stock ownership occurs, the Pakistan company shall promptly notify both the Commissioner of Internal Revenue

and the withholding agent of the then existing facts with respect to such stock ownership.

(v) *Request for determination in respect of past payments.* If a Pakistan company has received on or after January 1, 1959, dividends from a domestic corporation and the relationship existing between the Pakistan company and the domestic corporation was at the time the dividends were paid, such as to render uncertain whether, by reason of the requirement as to stock ownership, the dividends qualified for the reduction in rate of United States tax granted by Article VI(1) of the convention, the Pakistan company shall apply to the Commissioner of Internal Revenue, Washington 25, D.C., for a determination as to whether the Pakistan company owned, at the time the dividends were paid, shares of stock carrying sufficient voting power of the domestic corporation. If the Commissioner's determination is that at such time the stock ownership was such as to permit the application of the reduced rate of United States tax granted by Article VI(1) of the convention, his letter of notification may, subject to the provisions of § 517.7(a)(2), authorize the release of excess tax withheld from such dividends.

§ 517.3 Patent and copyright royalties.

(a) *Exemption from United States tax—*
(1) *In general.* Any royalty paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trademark, or other like property, and received from sources within the United States in a taxable year beginning on or after January 1, 1959, by a nonresident alien individual who is resident in Pakistan for the purposes of Pakistan tax, or by a foreign company whose business is managed and controlled in Pakistan, is exempt from United States tax under the provisions of Article VIII of the convention if such alien or company has not had a permanent establishment in the United States at any time during the taxable year in which the royalty is received. Notwithstanding the preceding sentence, no exemption from United States tax shall be granted under Article VIII of the convention in respect of

royalties or rentals from motion picture films.

(2) *Exemption applicable to reasonable consideration only.* If any royalty exceeds a fair and reasonable consideration for the rights in respect of which it is paid, the exemption under this paragraph shall apply to only so much of the royalty as represents the fair and reasonable consideration.

(3) *Personal services.* If a nonresident alien individual who is resident in Pakistan for the purposes of Pakistan tax were to perform personal services within the United States during the taxable year but not have a permanent establishment in the United States at any time during the year, he would be entitled to the exemption granted by Article VIII of the convention even though under the provisions of section 871(c) of the Internal Revenue Code of 1954 he had engaged in trade or business within the United States during that year by reason of his having performed personal services therein.

(b) *Exemption from withholding of tax—*

(1) *Notification by letter.* To avoid withholding of United States tax on or after January 1, 1959, from a royalty which is exempt in accordance with paragraph (a) of this section, the nonresident alien individual who is resident in Pakistan for the purposes of Pakistan tax, or the foreign company whose business is managed and controlled in Pakistan, shall notify the withholding agent by letter in duplicate that the royalty is exempt from United States tax under the provisions of Article VIII of the convention. The letter of notification shall be signed by the owner of the royalty, or by his trustee or agent, and shall show the name and address of the obligor and the name and address of the owner of the royalty. The letter shall contain a statement that (i) the owner is neither a citizen nor a resident of the United States but is a resident of Pakistan for the purposes of Pakistan tax, or, in the case of a corporation, the owner is a foreign company whose business is managed and controlled in Pakistan, and (ii) the owner has at no time during the current taxable year had a permanent establishment in the United States. The letter shall also indicate the dates on

which the current taxable year of the taxpayer begins and ends.

(2) *Use of letter for release of excess tax.* If the letter is also to be used as authorization for the release, pursuant to § 517.7(a)(3), of excess tax withheld from the royalty, it shall also contain a statement that (i) at the time when the royalty was received from which the excess tax was withheld, the owner was neither a citizen nor a resident of the United States but was a resident of Pakistan for the purposes of Pakistan tax, or, in the case of a corporation, the owner was a foreign company whose business was managed and controlled in Pakistan, and (ii) the owner at no time during the taxable year in which the royalty was received had a permanent establishment in the United States. The dates of the beginning and ending of the taxable year of the taxpayer in which the royalty was received shall also be indicated.

(3) *Manner of filing letter.* The letter of notification, which shall constitute authorization for the payment of the royalty without withholding of United States tax at source, shall be filed with the withholding agent for each successive 3-calendar-year period during which the royalty is paid. For this purpose, the first of such periods shall commence with the beginning of the calendar year in which the royalty is first paid on or after January 1, 1959. Each letter filed with any withholding agent shall be filed not later than 20 days preceding the date of the first payment within each successive period, or, if that is not possible because of special circumstances, as soon as possible after such first payment. Once a letter has been filed in respect of any 3-calendar-year period, no additional letter need be filed in respect thereto unless the Commissioner of Internal Revenue notifies the withholding agent that an additional letter shall be filed by the taxpayer. If, after filing a letter of notification, the taxpayer ceases to be eligible for the exemption from United States tax granted by Article VIII of the convention, he shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the royalty as recorded on the books of the payer, the exemption from withholding

of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(4) *Disposition of letter.* Each letter of notification, or the duplicate thereof, shall be forwarded immediately by the withholding agent to the Director of International Operations, Internal Revenue Service, Washington 25, D.C.

(5) *Reasonableness of consideration.* For purposes of this paragraph, the withholding agent may, unless he has information to the contrary, presume that the royalty represents a fair and reasonable consideration for the rights in respect of which it is paid.

§ 517.4 Private pensions and annuities.

(a) *Exemption from United States tax—*

(1) *Pensions and annuities which are exempt.* Except as provided in subparagraph (2) of this paragraph, a pension or annuity which is derived from sources within the United States and received in a taxable year beginning on or after January 1, 1959, by a non-resident alien individual who is resident in Pakistan for the purposes of Pakistan tax shall be exempt from United States tax under the provisions of Article X of the convention.

(2) *Pensions and annuities which are not exempt.* The following pensions or annuities are not exempt from United States tax under the provisions of Article X of the convention or under this section—

(i) A pension or annuity paid by or on behalf of the Government of the United States or its political subdivisions, for services rendered to that Government in the discharge of governmental functions; and

(ii) A pension or annuity paid by or on behalf of the Government of Pakistan or the Government of a Province in Pakistan or any local authority thereof, for services rendered in the discharge of functions of that Government or of local authority, as the case may be; and

(iii) A pension or annuity payable from a fund, under an employees' pension or annuity plan, contributions to which are deductible under the tax law of the United States in determining taxable income of the employer.

(b) *Definition of annuity.* As used in this section, the term “annuity” means a stated sum payable periodically at stated times during life, or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money’s worth.

(c) *Exemption from withholding of tax—*
 (1) *Notification by letter.* To avoid withholding of United States tax on or after January 1, 1959, from pensions or annuities which are exempt from tax in accordance with paragraph (a) of this section, the nonresident alien individual who is resident in Pakistan for the purposes of Pakistan tax shall notify the withholding agent by letter in duplicate that the pensions or annuities are exempt from United States tax under the provisions of Article X of the convention. The letter of notification shall be signed by the owner of the income, shall show the name and address of both the payer and the owner of the income, and shall contain a statement that the owner, an individual, is neither a citizen nor a resident of the United States but is a resident of Pakistan for the purposes of Pakistan tax. The letter shall also indicate the dates on which the current taxable year of the taxpayer begins and ends.

(2) *Use of letter for release of tax.* If the letter is also to be used as authorization for the release, pursuant to § 517.7(a)(3), of excess tax withheld from the pensions or annuities, it shall also contain a statement that the owner was, at the time when the income was received from which the excess tax was withheld, neither a citizen nor a resident of the United States but was a resident of Pakistan for the purposes of Pakistan tax. The dates of the beginning and ending of the taxable year of the taxpayer in which the income was received shall also be indicated.

(3) *Manner of filing letter.* The letter of notification shall constitute authorization for the payment of the pensions or annuities without withholding of United States tax at source unless the Commissioner of Internal Revenue notifies the withholding agent thereafter to withhold the tax from such items of income. If, after filing a letter of notification, the owner of the income

ceases to be eligible under the convention for the exemption from United States tax in the case of such items of income, he shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the income as recorded on the books of the payer, the exemption from withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(4) *Disposition of letter.* Each letter of notification, or the duplicate thereof, shall be forwarded immediately by the withholding agent to the Director of International Operations, Internal Revenue Service, Washington 25, D.C.

§ 517.5 Interest derived by the State Bank of Pakistan.

(a) *Exemption from United States tax.* Any interest of the State Bank of Pakistan which is received from sources within the United States on or after January 1, 1956, is, to the extent not exempt from tax under section 892 of the Internal Revenue Code of 1954, exempt from United States tax under the provisions of Article XIV(1) of the convention.

(b) *Exemption from withholding of tax.* No withholding of United States tax is required in the case of interest received from sources within the United States by the State Bank of Pakistan if, in accordance with paragraph (a) of this section, the interest is exempt from United States tax.

(c) *Refund of excess tax withheld before January 1, 1959.* If United States tax has been withheld before January 1, 1959, and on or after January 1, 1956, from interest of the State Bank of Pakistan, a claim by the bank for the refund of any overpayment resulting therefrom may be made under section 6402 of the Internal Revenue Code of 1954 and the regulations thereunder. For the release of excess tax withheld from such interest on or after January 1, 1959, see § 517.7(a)(4).

§ 517.6 Beneficiaries of a domestic estate or trust.

A nonresident alien individual who is resident in Pakistan for the purposes of Pakistan tax and who is a beneficiary

of a domestic estate or trust shall be entitled to the exemption from United States tax granted by Article VIII of the convention with respect to patent and copyright royalties to the extent that (a) any amount paid, credited, or required to be distributed by the estate or trust to the beneficiary is deemed to consist of those items and (b) the items so deemed to be included in such amount would, without regard to the convention, be includible in his gross income; provided, however, that the beneficiary otherwise satisfies the requirements for exemption specified in Article VIII of the convention. To obtain the exemption from withholding of United States tax in such a case, the beneficiary must execute and submit to the fiduciary of the estate or trust in the United States the letter of notification prescribed in § 517.3(b).

§ 517.7 Release of excess tax withheld at source.

(a) *Amounts to be released*—(1) *Dividends paid by a foreign company managed and controlled in Pakistan.* If United States tax at the statutory rate has been withheld on or after January 1, 1959, from dividends paid by a foreign company whose business is managed and controlled in Pakistan to a recipient other than a citizen or resident or corporation of the United States, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the tax so withheld.

(2) *Dividends paid to a Pakistan parent company.* If United States tax at the statutory rate has been withheld on or after January 1, 1959, from dividends entitled to the reduced rate of 15 percent in accordance with § 517.2(a)(2), the withholding agent shall, if furnished the authorization of release prescribed in § 517.2(b)(2)(ii) or (3)(v), release and pay over to the company from which the tax was withheld an amount which is equal to the difference between the tax so withheld from income received by the taxpayer in a taxable year beginning on or after January 1, 1959, and the tax required to be withheld from such income pursuant to § 517.2(b)(2)(i).

(3) *Patent and copyright royalties, pensions, and annuities.* If a taxpayer furnishes to the withholding agent the au-

thorization of release prescribed in § 517.3(b)(2) or § 517.4(c)(2) and United States tax has been withheld at the statutory rate on or after January 1, 1959, from the royalties, pensions, or annuities in respect of which such authorization is prescribed, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the tax so withheld from income received by the taxpayer in a taxable year beginning on or after January 1, 1959.

(4) *Interest paid to the State Bank of Pakistan.* If United States tax at the statutory rate has been withheld on or after January 1, 1959, from interest of the State Bank of Pakistan, the withholding agent shall release and pay over to that bank an amount which is equal to the tax so withheld.

(b) *Amounts not to be released.* The provisions of this section do not apply to excess tax withheld at source which has been paid by the withholding agent to the Director of International Operations, Internal Revenue Service.

(c) *Statutory rate.* As used in this section, the term “statutory rate” means the rate of tax required to be withheld in accordance with chapter 3 of the Internal Revenue Code of 1954 as though the convention had not come into effect.

§ 517.8 Information to be furnished in ordinary course.

For provisions relating to the exchange of information under Article XVI of the convention, see paragraph (d) of § 1.1461-2 of this chapter (Income Tax Regulations; 26 CFR 1.1461-2(d)).

§ 517.9 Application of the convention to fiscal years.

Since the convention is effective for taxable years beginning on or after January 1, 1959, the fact that the exemption from, or reduction in the rate of, withholding of United States tax at source authorized by §§ 517.1 to 517.9 is made effective beginning January 1, 1959, is not a determination in itself that the item of income concerned is entitled to the benefit of the exemption from, or reduced rate of, United States tax granted by the convention.